IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

WEDNESDAY, THE 22ND NOVEMBER 2006 / 1ST AGRAHAYANA 1928

WP(C).No. 28307 of 2006(T)

PETITIONERS:

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1. P.P. BHASKARAN, AGED 50 YEARS,
   S/O.SEEMANTHINI, MANIYAMBATH PUTHUKKUDY HOUSE,
   P.O. THIRUVANGAD, THALASSERY.

2. MOHAN, MANIYAMBATH PUTHUKKUDY HOUSE,
   P.O. THIRUVANGAD, THALASSERY.

BY ADV. SRI.T.M.ABDUL LATIFF

RESPONDENTS:

1.CHAIRMAN, DEVELOPMENT COMMITTEE,
  THALASSERY MUNICIPALAITY, THALASSERY.

2.CHAIRMAN, THALASSERY MUNICIPALITY,
  THALASSERY.

3.SECRETARY, THALASSERY MUNICIPALITY
  THALASSERY.

4.TOWN PLANNING OFFICER,
  THALASSERY MUNICIPALITY, THALASSERY.

BY ADV. SRI.I.V.PRAMOD, S.C.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 22/11/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PIUS C. KURIAKOSE,J.

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W.P.(C)No.28307 of 2006

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Dated: 22nd November, 2006

JUDGMENT

The petitioners are aggrieved by Ext.P1 order passed by the 4th respondent rejecting the petitioners application for building permit on the reason that the petitioners' property is intended to be acquired for commercial purposes.

2. Heard Mr.T.M.Abdul Latiff, learned counsel for the petitioners and Mr.I.V.Pramod, learned Standing Counsel for the Thalassery Municipality.

3. Mr.Abdul Latiff would invite my attention to Ext.P3 judgment passed by this court in circumstances similar to those which obtained in the present case. Though the learned Standing Counsel for the Municipality sought for time to get instructions from the Municipality, in view of the judgment of this court in **Padmini v. State of Kerala** (1999(3) KLT 465) which was relied on in Ext.P3 judgment also, I am of the view that the petitioners are entitled for relief. Accordingly, Ext.P1 is quashed and there will be a direction to the respondents to reconsider the petitioners' application for building permit taking into account the principles laid down by this court in **Padmini v. State of Kerala** (supra).If the plan submitted by the petitioners for approval is otherwise in order, the proposal for acquisition shall not be a

reason for rejecting the building permit. Fresh decision as directed above will be taken by the respondents at the the earliest and at any rate within weeks of their receiving a copy of this judgment.

The Writ Petition will stand disposed of as above.

srd **PIUS C.KURIAKOSE, JUDGE**